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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,175	03/26/2004	Jerald C. Seelig	619.708	8014

21707 7590 06/09/2008

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EXAMINER	
COBURN, CORBETT B	
ART UNIT	PAPER NUMBER
3714	
MAIL DATE	DELIVERY MODE
06/09/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/810,175	SEELIG ET AL.	
	Examiner	Art Unit	
	Corbett B. Coburn	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 March 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-46* is/are pending in the application.

4a) Of the above claim(s) *4-8,10-16,18,20-32,35,36 and 38-42* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,9,17,19,33,34,37 and 43-46* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Applicant has added claims 43 & 44. These appear to be entitled to priority as of the day of filing the current application since all parent applications appear to involve circular motion instead of lateral motion.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-3, 9, 17, 19, 33, 34, 37, 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fey (*Slot Machines, A Pictorial History of the First 100 Years*, Liberty Bell Books, 1983) in view of Baerlocher (US Patent Number 6,336,863).

Claims 1, 33: Fey teaches the Reliance slot machine on page 24. The Reliance includes a housing defining a display area. There is at least one indicium representing at least one prize is displayed on the display area (the arrows point to trade checks). There are a plurality of display characters (i.e., arrows) configured to move and configured to indicate the indicium. The Reliance includes a mechanical controller in communication with the at least one of the plurality of display characters and being configured to direct movement thereof. The controller is configured to move the at least one of the plurality of display characters to indicate the at least one indicium that corresponds to the game outcome. The Reliance lacks a computerized controller that is configured to generate a

random number and generate a game outcome based on the random number. Baerlocher (along with all modern slot machines) has such a controller (42). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Reliance in view of Baerlocher to include a computerized controller configured to generate a random number and generate a game outcome based on the random number in order to modernize the Reliance.

Regarding the newly added limitation the movement of the Reliance's display characters relative to each other indicates the prize. The relative positions of the arrows (i.e., the indicium each arrow points to) determine the prize awarded (if any). The player consulted a paytable to determine what prize was to be awarded based on the relative positions of the arrows.

Claim 2, 34: The plurality of display characters are three-dimensional. All physical objects are three-dimensional.

Claim 3: According to Wiktionary, "choreographed" means "made to work together". Clearly, the Reliance's pointers work together. Thus, the display characters are configured to move in a choreographed manner.

Claims 9, 37: In order to move the arrows, there must be at least one actuator coupled to the at least one of the plurality of display characters and in communication with the controller, wherein the controller is configured to cause the at least one actuator to move the at least one of the plurality of display characters.

Claim 17: The display area comprises a changeable display area and the at least one indicium comprises indicia, wherein at least a portion of the indicia are displayed on the

changeable display area. The face of the machine is the display area. Since the arrows move, the display area is changeable. The indicia appear on the display area.

Claim 19: The display area includes at least one prize display on the display area, wherein indicia are displayed on the prize display. The Reliance & Baerlocher both have the prizes on the display area.

4. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fey & Baerlocher as applied to claim 1 above, and further in view of Nordman (US Patent Number 6,712,694).

Claim 43: Fey & Baerlocher teach the invention substantially as claimed, but fail to teach moving the display character in an extended position to indicate the prize. Nordman teaches this type of movement. (Fig 1B) The combination of well known elements performing their expected functions to yield predictable results is considered obvious.

5. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fey & Baerlocher as applied to claim 1 above, and further in view of Nordman (US Patent Number 6,712,694) & Baerlocher et al. (US Patent Number 6,569,015).

Claim 44: Fey & Baerlocher teaches the invention substantially as claimed, but fails to teach but fail to teach moving the display character in an extended position to indicate the prize. Nordman teaches this type of movement. (Fig 1B) The combination of well known elements performing their expected functions to yield predictable results is considered obvious. They further fail to teach awarding the player a mathematical combination of the prizes indicated by the first and second display characters.

Determining the prizes to be awarded (and indicating this prize) is well within the level of ordinary skill. This is the foundation of the art. Baerlocher '015 teaches selecting multiple indicia & combining them mathematically to determine the prize awarded to the player (Fig 4). A combination of known elements by known methods to yield predictable results is considered obvious.

6. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fey & Baerlocher as applied to claim 45 above, and further in view of Baerlocher et al. (US Patent Number 6,569,015)

Claim 46: Fey & Baerlocher teach the invention substantially as claimed, but fail to teach awarding the player a mathematical combination of the prizes indicated by the first and second display characters. Determining the prizes to be awarded (and indicating this prize) is well within the level of ordinary skill. This is the foundation of the art. Baerlocher '015 teaches selecting multiple indicia & combining them mathematically to determine the prize awarded to the player (Fig 4). A combination of known elements by known methods to yield predictable results is considered obvious. Furthermore, the addition of steps to the prize determination display routine heightens player interest. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Fey & Baerlocher in view of Baerlocher '015 to award the player a mathematical combination of the prizes indicated by the first and second display characters in order to heighten player interest.

Double Patenting

7. Claims 1-42 of this application conflict with claims 1-19 of Application No. 11/239,784. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

Response to Arguments

8. Applicant's arguments filed 6 March 2008 have been fully considered but they are not persuasive.

9. Applicant's arguments, with the exception of those concerning double patenting, are drawn to the claims as amended & answered in the rejection above.

10. With respect to the double patenting rejection, the structure claimed is the same. The only difference between the two is a matter of aesthetics – the paint job on the moving portions & non-moving portions are reversed. Changing the aesthetics of a structure is not enough to patentably distinguish them.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (571) 272-4447. The examiner can normally be reached on 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Corbett B. Coburn/
Primary Examiner
Art Unit 3714